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304 NLRB No. 5

D-2153  
Ottumwa, IA

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALPHA HEALTH CARE SERVICES, INC.,  
d/b/a HILLSIDE MANOR CARE CENTER

and

Case 18-CA-11053

UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION,  
LOCAL NO. 230, AFL-CIO

*August 12, 1991*  
SUPPLEMENTAL DECISION AND ORDER

*By Chairman Stephens and Members Cracraft and Devaney*  
On March 29, 1990, the National Labor Relations Board issued a Decision

and Order in this proceeding<sup>1</sup> in which it, inter alia, ordered the Respondent to make whole two named discriminatees and other unidentified discriminatees from whom the Respondent had withheld vacation benefits and wage increases. On January 9, 1991, the United States Court of Appeals for the Eighth Circuit entered its judgment enforcing the Board's Order.<sup>2</sup> A controversy having arisen over the amounts due under the Board's Order,<sup>3</sup> as enforced by the court, the Regional Director for Region 18 issued a compliance specification and notice of hearing on April 30, 1991. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer to the specification.<sup>3</sup>

<sup>1</sup> 297 NLRB No. 176.

<sup>2</sup> No. 90--2838 (unpublished).

<sup>3</sup> The compliance specification and notice of hearing was served on the Respondent's attorney on April 30, 1991, and received by the Respondent's attorney on May 3, 1991. Service of the compliance specification and notice of hearing directly on the Respondent at its last known place of business at Ottumwa, Iowa, was attempted by certified mail, which was returned to  
(Footnote continued)

On June 12, 1991, the General Counsel filed with the Board a Motion for Default Summary Judgment. On June 18, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent did not file a response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the entire record, the Board makes the following

Ruling on Motion for Default Summary Judgment

Section 102.56 of the Board's Rules and Regulations provides that if an answer is not filed within 21 days from the service of the compliance specification, the Board may find the allegations of the specification to be true and enter an appropriate order. According to the uncontroverted allegations in the Motion for Default Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Summary Judgment. Accordingly, we conclude that

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the Regional Office as unclaimed and marked by the U.S. Postal Service as "RETURNED TO SENDER ATTEMPTED, NOT KNOWN." The Regional Attorney, in a letter to the Respondent's attorney dated May 21, 1991, notified the Respondent that it had failed to file an answer to the compliance specification and of the requirement that such an answer be filed. The letter also stated that the Respondent would be given a "second and final opportunity" to file an answer until the close of business on May 29, 1991. To date, no answer has been filed.

The Respondent's refusal or failure to claim certified mail does not defeat the purposes of the Act. Delta Star Trucking, 288 NLRB No. 63 at fn. 1 (Apr. 22, 1988); Sheet Metal Workers Local 49 (Driver-Miller Plumbing), 124 NLRB 888, 890 (1959); Pasco Packing Co., 115 NLRB 437 (1956).

the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

## ORDER

The National Labor Relations Board orders that the Respondent, Alpha Health Care Services, Inc., d/b/a Hillside Manor Care Center, Ottumwa, Iowa, its officers, agents, successors, and assigns, shall make whole the discriminatees named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Judith E. Myers	\$ 4,140
Laura L. Owens	4,003
Janice Bain	380
Virginia E. Bal	221
Mary P. Beary	728
Kimberly A. Bishop	540
Betty E. Richards	186
Martha L. Smith	609
Ramona Terrell	192

Dated, Washington, D.C. August 12, 1991

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James M. Stephens, Chairman

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Mary Miller Cracraft, Member

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Dennis M. Devaney, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD